

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:)	Case No.: 16-47428-659
)	Honorable Kathy A. Surratt-States
DIRECTORY DISTRIBUTING)	Chapter 11 Proceeding
ASSOCIATES, INC. ,)	
)	Hearing Date: December 12, 2016
Debtor.)	Hearing Time: 11:00 a.m.
)	Hearing Location: 7 North
)	St. Louis, Missouri
)	
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**MOTION FOR CONFIRMATION THAT THE AUTOMATIC STAY PURSUANT
TO 11 U.S.C. § 362 INCLUDES INDEMNIFIED NON-DEBTOR CO-DEFENDANTS,
OR, IN THE ALTERNATIVE, FOR STAY OF PROCEEDINGS PURSUANT TO 11
U.S.C. § 105(a)**

COMES NOW Debtor Directory Distributing Associates, Inc. (“DDA” or “Debtor”), and for its Motion for Confirmation that the Automatic Stay Pursuant to 11 U.S.C. § 362(a) Applies to Indemnified Non-Debtor Co-Defendants, or, in the alternative, for Stay of Proceedings Pursuant to 11 U.S.C. § 105(a) in light of its Voluntary Petition for Non-Individuals Filing for Bankruptcy filed on October 14, 2016 (the “Motion”), respectfully states as follows:

INTRODUCTION

1. On October 14, 2016, (the “Petition Date”), Debtor filed a voluntary petition for relief under Chapter 11, Title 11 of the United States Code (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Eastern District of Missouri.

2. Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, Debtor is continuing to operate its business as a debtor in possession. No trustee or examiner has been appointed, and no official committee of creditors or equity interest holders has yet been established in this Chapter 11 case.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157. No prior request has been made to this Court or any other court for the relief sought herein.

RELIEF REQUESTED

4. Debtor is a party in two Fair Labor Standards Act (“FLSA”) actions: the first has been pending in Texas state court since August 2011, *Walker, et al. v. Directory Distributing Associates, Inc., et al.*, Cause No. 2011-50578, District Court of Harris County, Texas, 269th Judicial District (“*Walker*”); and the second, more recent case was filed in federal district court in the Northern District of California in May 2016, *Krawczyk et al. v. Directory Distributing Associates, Inc., et al.*, Case No. 3:16-cv-02531-VC (“*Krawczyk*”). AT&T Corp. and several former employees and managers of DDA are co-defendants in *Walker*. AT&T Corp.; AT&T Inc.; AT&T Services, Inc.; YP Holdings LLC; YP Advertising & Publishing LLC; and YP LLC are co-defendants in *Krawczyk*. The plaintiffs in both actions are delivery workers who were hired by DDA as independent contractors to deliver telephone directories. The plaintiffs in these cases allege that DDA misclassified its workers as independent contractors and violated the FLSA by failing to compensate the workers in accordance with the FLSA’s requirements for the payment of employees. The plaintiffs further allege that the non-debtor co-defendants are liable as joint employers of DDA’s workers. In other words, the plaintiffs’ theory of liability is that DDA is

liable for violations of the FLSA, and that the non-debtor co-defendants are derivatively liable because they were joint employers (both of which contentions the DDA and non-debtor co-defendants dispute).

5. By this Motion, and as further supported by Debtor's Memorandum in Support and Declaration of Kristy Runk Bryan to be filed in short order (the "Supporting Documents"), DDA requests this Court confirm that section 362(a)'s automatic stay applies to the indemnified co-defendants in both the *Walker* and *Krawczyk* matters. In the alternative, DDA requests this Court enjoin the parties from proceeding with the *Walker* and *Krawczyk* proceedings under its section 105 authority.

6. As explained further in the Supporting Documents, the scope of the automatic stay should encompass the non-debtor co-defendants in the *Walker* and *Krawczyk* actions because a mandatory indemnification obligation exists between some or all of the parties. Alternatively, the Court should enjoin the parties from proceeding in the *Walker* and *Krawczyk* matters because Debtor would be necessarily drawn into costly and protracted litigation against the non-debtor co-defendants.

7. For the foregoing reasons, this Court's should confirm that the automatic stay applies to plaintiffs' actions against the indemnified non-debtor co-defendants in both *Walker* and *Krawczyk*. In the alternative, this Court should enjoin the parties from proceeding in the *Walker* and *Krawczyk* cases under its equitable powers because continuing the actions would irreparably harm DDA's resources through responding to vast discovery requests while moving through the instant proceeding.

WHEREFORE Debtor Directory Distributing Associates, Inc. respectfully requests entry of an order granting its Motion for Confirmation that the Automatic Stay Pursuant to 11 U.S.C. §

362(a) Applies to Indemnified Non-Debtor Co-Defendants, or, in the alternative, for Stay of Proceedings Pursuant to 11 U.S.C. § 105(a) in light of its Voluntary Petition for Non-Individuals Filing for Bankruptcy filed on October 14, 2016 and granting such other and further relief as the Court deems just and proper.

Respectfully submitted,

CARMODY MACDONALD P.C.

By: /s/ Robert E. Eggmann

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ATTORNEYS FOR DEBTOR DIRECTORY
DISTRIBUTING ASSOCIATES, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies on the 15th day of November, 2016, that a true and correct copy of the above and foregoing pleading was served by electronic filing in the CM/ECF system of the United States Bankruptcy Court for the Eastern District of Missouri which will send notification of such filing to the following registered parties in interest:

Office of the U.S. Trustee, USTPRegion13.SL.ECF@USDOJ.gov

E. Rebecca Case on behalf of Creditor The Globe Building Company, erc@stoneleyton.com,
ercec@gmail.com

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served via U.S. Mail, postage prepaid, this 15th day of November, 2016 to:

Steven A. Ginther on behalf of Creditor Missouri Department of Revenue
Missouri Department of Revenue
General Counsel's Office
P.O. Box 475
Jefferson City, MO 65105

/s/ Robert E. Eggmann